

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDON LESTER,)
)
Plaintiff)
-vs-) CIVIL ACTION
) NO. 7:15-cv-00665-GEC
SMC TRANSPORT, LLC,)
ISRAEL MARTINEZ, JR.,)
and)
SALINAS EXPRESS, LLC,)
)
Defendants)

DEPOSITION OF BRANDON C. LESTER

DATE: April 11, 2016 (Wednesday)

TIME: 10:00 a.m.

LOCATION: Glenn Robinson & Cathey
Fulton Motor Lofts
400 Salem Avenue, S.W.
Suite 100
Roanoke, Virginia

REPORTED BY: Mary J. Butenschoen, RPR, #4952
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P R O C E E D I N G S

Whereupon,

THE VIDEOGRAPHER: I am Danielle Dillon,
your videographer, and I represent A+ Court
Reporter & Video in Roanoke, Virginia. The date
is April 7 -- sorry, April 11, 2016. The time
is 9:59 a.m.

This deposition is taking place at Glenn
Robinson & Cathey. This is Case Number
715-CV-00665-GEC entitled Brandon Lester versus
MSC [sic] Transport LLC, Israel Martinez, Jr.,
and Salinas Express, LLC. The deponent is
Brandon Clark Lester.

This deposition is being taken on behalf
of the plaintiff. Your court reporter is Mary
Butenschoen from A+ Court Reporting and Video.
Will the attorneys please introduce themselves.

MS. ROBINSON: Melissa Robinson here for
Brandon Lester.

MS. WHITE: Johneal White here for
Brandon Lester.

MR. FRANKL: Dan Frankl here for Salinas
Express.

MR. HEARN: David Hearn. I represent

1 Isreal Martinez, Jr.

2 MR. DUNN: Lawrence Dunn. I represent
3 SMC Transport, LLC.

4 THE VIDEOGRAPHER: The witness may be
5 sworn in now.

6 BRANDON C. LESTER
7 after having first been duly sworn to tell the truth, the
8 whole truth, and nothing but the truth, was examined and
9 testified as follows:

10 THE VIDEOGRAPHER: On the record at
11 10:01.

12 EXAMINATION

13 BY MR. FRANKL:

14 Q Brandon, my name is Dan Frankl, and as
15 you just heard I represent Salinas Express, LLC, and I'm
16 going to ask you some questions about your background and
17 history and employment and the accident that took place
18 back on October 26 of 2015.

19 If you don't hear a question or
20 understand a question, please ask me to repeat it or
21 rephrase it, and I'll be glad to do so. If you answer a
22 question it will be assumed that you both heard it and
23 that you understood it.

24 Because this is being taken down by a

1 A Like clean up, just turn the radio on and
2 stay busy.

3 Q I mean, are you working on --

4 A Not much out there. I mean, it wasn't
5 much out there. I used to just go out there and clean the
6 lawn mower up, you know, sharpen lawn mower blades, stuff
7 like that, but that weekend I didn't really do nothing.

8 Q Do you drink alcoholic beverages?

9 A Yes and no. Like I might drink one or
10 two here and there, but do I drink on a regular basis, no.

11 Q And when you say you drink, are you
12 talking about beer or are you talking about --

13 A Yeah. If I drink it might be like one
14 beer or something.

15 Q You might --

16 A I have never drank over like three or
17 four at a time.

18 Q Have you ever had anything to drink other
19 than beer?

20 A Not to my knowledge.

21 Q No moonshine or anything of that nature?

22 A I had like a mixed drink one time. I
23 didn't like it -- I was at Applebee's -- and I didn't
24 drink nothing after that, no.

1 Q So do you know as you sit here today what
2 time you went to bed on Sunday night the 25th of October
3 before you woke up the next morning to go into work at
4 Allegheny?

5 A Probably around 9 or 10 o'clock, time I
6 usually go to bed.

7 Q At what time would you normally wake up?

8 A About 4:30.

9 Q And so you indicated you left around
10 5:15. What would you have done between --

11 A I usually get up, take a shower, get
12 ready for work.

13 Q And were you taking any medication at the
14 time of the -- on the date of the accident?

15 A Lithium.

16 Q And how long had you been taking Lithium?

17 A For a good while. Year and something, I
18 think.

19 Q Over a year?

20 A Yes, sir.

21 Q And did Lithium have any effect on you?
22 I mean, did you know -- did it make you drowsy?

23 A No, sir.

24 Q Did it have any side effects at all that

1 you were aware of?

2 A No, sir.

3 Q Okay. Was there anything -- do you
4 normally eat breakfast?

5 A I usually get up, take a shower, eat a
6 bowl of oatmeal and put my clothes on and leave.

7 Q And to the best of your recollection, is
8 that what you did that Monday morning?

9 A Yes, sir.

10 Q Okay. And what was the weather like that
11 day?

12 A It was drizzling rain. It was kind of, I
13 would call it, more or less a heavy fog.

14 Q Did the fog have an effect on your
15 visibility down the roadway?

16 A Not really. It was enough to make the
17 road damp.

18 Q So it wasn't really like a thick fog and
19 you couldn't see through. It was just like a mist?

20 A It was like enough when you get outside
21 and your vehicle is -- the windshield is wet, but it
22 wasn't raining. It was just like dew, I guess you would
23 call it.

24 Q But the roadway surface was wet?

1 A Yes. Damp, I guess you would call it.

2 Q And when you travel down the roadway,
3 where do you keep your phone?

4 A Usually just laying in the seat.

5 Q And you -- but you do have it on?

6 A Yeah.

7 Q And you weren't using it at any time
8 prior to this accident?

9 A No. I don't text and drive.

10 Q Tell me in your own words, starting with
11 when you got on the Interstate 81 South at approximately
12 the 162 mile marker, what you remember on the date of this
13 accident.

14 A I'm pretty sure I'm the only vehicle that
15 I passed, that I come encountered with, until I come up to
16 this wreck.

17 Q I'm sorry. You believe you were the only
18 vehicle --

19 A Like I wasn't -- you know how you go down
20 the interstate now it would be a bunch of vehicles? When
21 I got on the interstate I didn't pass any vehicles.

22 Q You don't remember any other traffic
23 being out on the interstate from the 162 to --

24 A Not until I come to this truck in the

1 road, no, sir.

2 Q Okay. Would you agree -- well, did you
3 talk to the trooper at the accident scene after the
4 accident?

5 A I remember talking to somebody, I don't
6 quite know who it was. I was kind of in and out of it at
7 that point. I remember them putting me in the rescue
8 squad and somebody got in there and talked to me. I don't
9 quite know who it was, but I was coming in and out of it.

10 Q Okay. Would you agree that if you did
11 talk to individuals at the scene about what had happened
12 that what you told them immediately after the accident
13 would probably be more accurate than your memory today?

14 A Should be the same.

15 Q Should be the same.

16 A Yes, sir.

17 Q But if there are any differences,
18 which -- which story or which set of circumstances would
19 be more accurate?

20 A I know it was being said that I seen a
21 white van in the wreck. Come to find out a white box
22 truck hit me. I remember seeing something white. That
23 could be what I could have said was a white van.

24 Q Okay. But you're not answering my

1 lane?

2 A I'm almost positive it stayed in the
3 right lane, best of my knowledge.

4 Q Okay. Now, after the first impact --

5 A Yes, sir.

6 Q -- was your vehicle still I'll say on the
7 northbound or the northbound side of where the truck was
8 across the roadway?

9 A I don't know. I seen grass, is all I can
10 tell you. That's why I said I can't say it was here,
11 because I see grass right here, and I don't see no grass
12 here. But I know that once I wrecked the first time I
13 seen grass and I seen truck.

14 Q Okay. So in what position was your
15 pickup truck after the first collision?

16 A I guess I would have to say kind of
17 angled, because, like I said, I seen grass.

18 Q Okay. And if it was angled --

19 A Had to be towards grass.

20 Q Okay. But where is the closest grass?

21 A I would have to say there. That's why I
22 said I kind of hesitate on jumping saying it was there,
23 you know --

24 Q I understand that. But were you closer

1 to the guardrail or closer to the grass?

2 A I'm pretty sure it was grassy median,
3 because I thought I was out of the road.

4 Q Okay. So you would have had to have been
5 down to the south of this location?

6 A Yes.

7 Q South of where the --

8 A That's why I am actually wondering if
9 this guy wasn't pulling out of here, if he was pulling out
10 right here. Because once I hit, I looked out the
11 windshield. I could see some grass, and I could see his
12 truck.

13 MS. ROBINSON: So let the record reflect
14 that when he says makes me question whether he
15 was here, it's the spot marked as A.

16 BY MR. FRANKL:

17 Q Well, okay. You've got the spot marked
18 as A is where you thought initially that the truck was.

19 A Yes.

20 Q But go ahead and write or put a line
21 where you think the truck may have been.

22 A (Witness complies.)

23 Q Okay, and so --

24 A The reason I say it may have been here is

1 because --

2 Q Go ahead and put a B there.

3 A (Witness complies.) It just don't want
4 to write.

5 Q All right. And ultimately you ended up
6 in the -- well, which lane do you think your car ended up
7 when it was disabled?

8 A I would have to say I was probably
9 setting right here. I thought I was out of the road --

10 Q All right.

11 A -- and in a safe spot.

12 Q And how would you describe the impact
13 between your pickup truck and the initial collision?

14 A As in?

15 Q Was it a severe impact? Was it a minor
16 bump? How would you describe --

17 A I remember when I seen grass I tried to
18 get out of the vehicle. I couldn't get out of the
19 vehicle, so I just kind of -- it was very few seconds in
20 between. I remember hearing something. I could look up
21 in my rearview mirror and see this truck coming. That's
22 all that I can tell you happened within the impact. I
23 don't remember much of the impact.

24 Q I am talking about the first one when